

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Wurtzel	Team: Squad #2	CCRB Case #: 201502924	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/16/2015 5:31 PM	Location of Incident: § 87(2)(b)	Precinct: 43	18 Mo. SOL 10/16/2016	EO SOL 10/16/2016	
Date/Time CV Reported Fri, 04/17/2015 2:01 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/17/2015 2:01 PM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. POM Sean Higgins	01585	932790	043 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POF Jennifer Nicalek	23751	945735	043 PCT		
Officer(s)	Allegation			Investigator Recommendation	
A.POM Sean Higgins	Abuse: PO Sean Higgins threatened to arrest § 87(2)(b)				

Case Summary

On April 16, 2015, at 5:30 p.m., § 87(2)(b) was sitting on his porch when he had a verbal altercation with his neighbor, § 87(2)(b) called the police and PO Sean Higgins and PO Jennifer Nicalek of the 43rd Precinct responded. PO Higgins told § 87(2)(b) that he had a bad attitude and told § 87(2)(b) to call him if § 87(2)(b) ever gave him trouble in the future. PO Higgins added that he would return to the location and arrest § 87(2)(b) if he continued to cause problems in the building (**Allegation A**) (4A-5E). The officers departed the location after five minutes and § 87(2)(b) was not arrested or issued any summonses.

Mediation, Civil and Criminal Histories

§ 87(2)(b) rejected mediation for this case, stating that he did not wish to see the subject officer again. § 87(2)(b) stated that he was unsure whether he would be filing a Notice of Claim for this incident. A request for confirmation has been sent to the Comptroller's Office of the City of New York and will be added to the case file upon receipt (encl. 11A). § 87(2)(b) has no criminal convictions (encl. 12A).

Civilian and Officer CCRB Histories

- PO Higgins has been a member of the NYPD for 11 years and has had five previous CCRB allegations involving four cases and no substantiated allegations (encl. 2A).
- § 87(2)(b)

■ [REDACTED]

Findings and Recommendations

Explanation of Subject Officer Identification

PO Higgins and PO Nicalek acknowledged interacting with § 87(2)(b) on the incident date and both officers match the physical description provided by § 87(2)(b)

Recommendations

Allegation A – Abuse of Authority: PO Sean Higgins threatened to arrest § 87(2)(b)

It is undisputed that PO Higgins threatened to arrest § 87(2)(b). § 87(2)(b) stated that he had called 911 to the location after having a verbal dispute with § 87(2)(b) and alleged that PO Higgins informed § 87(2)(b) that § 87(2)(b) would be arrested if he harassed him in the future. § 87(2)(b) stated during his interview that he has called the police on more than one occasion concerning disputes with his neighbors but that this only the second time he had encountered PO Higgins.

PO Higgins corroborated § 87(2)(b)'s account that he informed § 87(2)(b) that § 87(2)(b) would be arrested if he continued to bother him. PO Higgins added that he could have arrested § 87(2)(b) for making false reports to 911. PO Higgins stated that § 87(2)(b) was not in the building when he arrived which led him to believe that § 87(2)(b)'s alleged dispute could not have occurred (encl. 7A-F). PO Nicalek denied hearing PO Higgins threaten to arrest § 87(2)(b) but stated that § 87(2)(b)'s demeanor during the incident was disorderly and that he could have been arrested for disorderly conduct (encl. 8A-F). § 87(2)(b) stated

that he has had a number of confrontations with § 87(2)(b) resulting in police involvement and could not recall specifics from the April 16, 2015, incident (encl. 6A). Both officers and § 87(2)(b) confirmed that they have been involved with multiple past incidents involving § 87(2)(b).

According to section 240.26 of the New York Penal Law, an individual is guilty of harassment in the second degree when he or she engages in a course of conduct which alarms or seriously annoys another person (encl. 1A).

§ 87(2)(g)

Pod: 2

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date